

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL MARR

Plaintiff,

vs.

CITY OF DETROIT, et al

Defendants.

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CASE NO.: 07-10931

HON. PAUL V. GADOLA

MAG. JUDGE STEVEN D. PEPE

**Order Granting Plaintiff's Motion for Service (Dkt. # 14)**

Plaintiff's motion seeks reiteration of the March 7, 2007, order directing the U.S. Marshals to serve the defendants in this matter. Plaintiff points out that he filed a motion seeking default judgment against defendants Broadnex and Marble which was denied due to the fact that these defendants were not served. Plaintiff asks that this Court redirect the Marshals to serve the Complaint to these defendants.

It is worth noting that a default judgment in this case would be improper even if the defendants are served because 42 U.S.C. §1997e provides defendants in actions brought by prisoners pursuant to §1983 with the ability to waive the right to reply and indicates "such waiver shall not constitute an admission of the allegations contained in the complaint". 42 U.S.C. §1997e(g)(1). So, while the Court "may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits", 42 U.S.C. §1997e(g)(2), until such time as this happens, none of the defendants in this matter are obligated to answer the complaint. *See e.g., Stevenson v. MDOC*, 2007 WL 1202310, \*1 (W.D.Mich. 2007)("Section 1997e(g) bars plaintiff from obtaining an entry of default . . . because defendants have no obligation to reply to the complaint until ordered by the court)(citations omitted).

Nonetheless, the undersigned hereby orders the U.S. Marshals to direct service and/or indicate that service has been attempted and describe the results.

SO ORDERED.

Dated: May 22, 2007

s/ Steven D. Pepe  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2007, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to the following: John A. Schapka, and I hereby certify that I have mailed by United States Postal Service this Order to Michael Marr #186617, Muskegon Correctional Facility, 2400 S. Sheridan Rd., Muskegon, MI 49442. I further certify that I have made arrangements for service by the United States Marshal Service of the complaint upon the named defendants.

s/ James P. Peltier  
Courtroom Deputy Clerk  
U.S. District Court  
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Flint, MI 48502  
810-341-7850  
pete\_peltier@mied.uscourts.gov